



**Billing Code 4310–55**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS–R5–ES–2014–N117; FXES11150500000]**

**Application for Enhancement of Survival Permit and Proposed Candidate  
Conservation Agreement with Assurances for the New England Cottontail; Maine  
Department of Inland Fisheries and Wildlife**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability and receipt of application; request for comments.

**SUMMARY:** The Maine Department of Inland Fisheries and Wildlife (MDIFW) has applied to the U.S. Fish and Wildlife Service (Service) for an Enhancement of Survival Permit under the Endangered Species Act of 1973 (ESA), as amended. The requested permit would authorize take of the New England cottontail (NEC) resulting from certain habitat improvement and land use activities, should the species be listed as endangered or threatened in the future. The permit application includes a proposed Candidate Conservation Agreement with Assurances (CCAA) between the MDIFW and the Service.

In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), we have prepared a draft categorical exclusion of the impacts of the requested permit. We are accepting comments on the permit application, proposed CCAA, and draft NEPA document.

**DATES:** Written comments on the permit application, draft CCAA, and draft NEPA document must be received on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Address any written comments concerning this notice to Anthony Tur, New England Field Office, U.S. Fish and Wildlife Service, 70 Commercial Street, Suite 300, Concord, NH 03301; alternatively, fax written comments to 603–224–0104, or email comments to *Anthony\_Tur@fws.gov*.

**FOR FURTHER INFORMATION CONTACT:** Anthony Tur, at the New England Field Office (see **ADDRESSES** above); 603–223–2541 (phone), 603–223–0104 (fax), or *Anthony\_Tur@fws.gov* (email). If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We furnish this notice to provide the public, other State and Federal agencies, and interested Tribes an opportunity to review and comment on the permit application, proposed CCAA, and draft NEPA document. We specifically request information, views, and opinions from the public on the proposed

Federal action of issuing a permit. Further, we solicit information regarding the adequacy of the permit application, including the proposed CCAA, as measured against our permit issuance criteria found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d).

### **Document Availability**

Copies of the permit application, proposed CCAA, and draft NEPA document are available for public inspection, by appointment, at the New England Field Office (see **ADDRESSES**), or you may view them on the Internet at <http://www.fws.gov/newengland/>. Copies of these documents can also be obtained by contacting the office and personnel listed in the **ADDRESSES** section.

### **Public Availability of Comments**

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

### **Background**

Permits for enhancement of survival through CCAAs encourage non-Federal property owners to implement conservation measures for species that are, or are likely to become, candidates for Federal listing as endangered or threatened by assuring property

owners they will not be subjected to increased property use restrictions if the covered species becomes listed in the future. Application requirements and issuance criteria for permits for enhancement of survival through CCAAs are in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). See also our policy on CCAAs (64 FR 32726; June 17, 1999).

### **Proposed Candidate Conservation Agreement with Assurances**

The CCAA that is the subject of this notice is a programmatic agreement between the Service and the MDIFW to further the conservation of the NEC (*Sylvilagus transitionalis*). Under the CCAA, the MDIFW would establish a program in which individual property owners can enroll. To enroll in the program, a property owner would enter into a cooperative agreement with the MDIFW that contains a site-specific management plan for the enrolled lands, and the MDIFW would then issue the property owner a Certificate of Inclusion. The site-specific management plan will specify conservation measures to address known threats to the NEC; those measures may include, but are not limited to, cutting vegetation to promote establishment of shrubland habitat, maintaining existing shrubland habitat, planting seeds and seedlings, controlling invasive plants species, removing non-native eastern cottontails should they occur in Maine in the future, and translocating NEC to newly created habitats. The plan will also specify measures to minimize the incidental take of NEC that might occur as a result of implementing the conservation measures or conducting other covered activities. The Certificate of Inclusion issued to the property owner will authorize this incidental take of the NEC if the species becomes listed under the ESA in the future.

The MDIFW seeks to enroll up to 12,000 acres (ac) (4,856 hectares (ha)) of private and State-owned land for NEC habitat management in York, Cumberland, Androscoggin, Sagadahoc, Lincoln, Knox, Oxford, Kennebec, and Waldo Counties in Maine. Lands targeted for NEC habitat management are generally those for which the current land use maintains or is capable of maintaining suitable NEC habitat with minimal take of NECs. Site potential for enrolled lands will be evaluated through a Habitat Suitability Index. Because resources for implementing conservation measures on enrolled lands are limited, sites with the highest potential value will be prioritized for enrollment based on proximity to existing occupied sites, along with other habitat parameters. Also eligible for enrollment are those lands under the same ownership that are adjacent to lands being managed for the benefit of NEC (hereafter referred to as “adjacent lands”). These adjacent lands include areas where otherwise lawful ongoing and future activities (e.g., hay production and timber harvesting) may result in inadvertent take of NEC. Although the amount of adjacent acreage that a property owner will enroll under this CCAA will depend on the circumstances specific to the property and property owner, we estimate that the typical property owner will enroll an area of adjacent lands about equal to five times the area of the lands managed for NEC. Therefore, about 60,000 ac (24,000 ha) of adjacent lands are associated with the 12,000 ac (4,856 ha) targeted for NEC habitat management. If we were to reach our target of 12,000 ac (4,856 ha) managed for NEC under this CCAA, then we estimate a total of about 72,000 ac (29,000 ha) would be enrolled under this CCAA.

As required by NEPA, we evaluated the effects to the environment that would result from issuance of the requested permit, and we do not foresee any significant effects. Therefore, we are proposing to categorically exclude this action from further analysis under NEPA. Entering into a cooperative agreement is strictly voluntary for property owners, and the activities to be covered under the permit are generally activities already occurring on these properties.

**Next Steps**

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will sign the proposed CCAA and issue a permit under section 10(a)(1)(A) of the ESA to the MDIFW for take of NEC. We will not make our final decision until after the end of the 30-day public comment period, and we will fully consider all comments we receive during the public comment period.

Dated: May 27, 2014.

**Paul R. Phifer, Ph.D.,  
Assistant Regional Director, Ecological Services, Northeast Region.**

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